

HOUSE BILL 202

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2004 Regular Session
4r1171
CF 4r0626

By: **Delegates Owings, Bohanan, Boutin, Cane, Cluster, Donoghue, Frush,
Harrison, Hennessy, Jameson, Jennings, McIntosh, Minnick, Mitchell,
O'Donnell, Rudolph, Sossi, Weir, and Wood**

Introduced and read first time: January 22, 2004

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Natural Resources - Finfishing - Closure of State Waters**

3 FOR the purpose of prohibiting the Department of Natural Resources from
4 completely closing an area of State waters to all finfishing unless the
5 Department satisfies certain requirements; requiring the Department to
6 publicize in certain ways certain information regarding certain public hearings
7 and to make a certain report available at a certain time; requiring the
8 Department to prepare a certain report at certain times; requiring the
9 Department to reopen a certain area under a certain circumstance; providing for
10 the application of this Act; and generally relating to certain closures of State
11 waters to finfishing.

12 BY adding to
13 Article - Natural Resources
14 Section 4-215.1
15 Annotated Code of Maryland
16 (2000 Replacement Volume and 2003 Supplement)

17 Preamble

18 WHEREAS, The waters of Maryland are among the State's most renowned
19 resources; and

20 WHEREAS, Effective assessment, management, and planning in the
21 conservation of Maryland waters are vital tools in the protection of the aquatic
22 environment; and

23 WHEREAS, There are more than 700,000 Maryland recreational anglers, and
24 recreational fishing is the most popular outdoor sporting activity in the State; and

25 WHEREAS, Recreational fishing provides more than 11,000 jobs in the State in
26 the retail, wholesale, and manufacturing sectors, and its average annual total
27 economic output is estimated to surpass \$1.06 billion; and

1 WHEREAS, Commercial fishing contributes an additional estimated economic
2 output of \$100.4 million per year, and 7,600 licensed harvesters, 225 dealers, and
3 more than 2,000 processing jobs rely on the productivity of State waters for their
4 livelihoods; and

5 WHEREAS, These commercial fisheries supply hundreds of local and national
6 restaurants and retail seafood outlets with the high quality seafood for which
7 Maryland is world famous; and

8 WHEREAS, The conservation of the State's aquatic resources and fisheries is in
9 the best interests of all of Maryland's citizens, and the General Assembly regards
10 fishing in Maryland waters as critical to the State's economy and way of life; and

11 WHEREAS, The sports fishery and commercial fishery alike have historically
12 demonstrated sound conservation ethics by seeking and supporting effective fishery
13 management plans and by participating in voluntary research and educational
14 outreach programs; and

15 WHEREAS, The General Assembly desires to establish a process to govern the
16 complete closure of an area of State waters to all finfishing throughout the year; now,
17 therefore,

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Natural Resources**

21 4-215.1.

22 (A) THE PROVISIONS OF THIS SECTION DO NOT APPLY IF THE DEPARTMENT
23 OF THE ENVIRONMENT HAS DETERMINED THAT IT IS NECESSARY TO CLOSE AN AREA
24 OF STATE WATERS TO FINFISHING FOR THE PROTECTION OF THE PUBLIC HEALTH
25 AND SAFETY.

26 (B) THE DEPARTMENT MAY NOT COMPLETELY CLOSE AN AREA OF STATE
27 WATERS TO ALL FINFISHING UNLESS THE DEPARTMENT:

28 (1) IN A WRITTEN REPORT MADE AVAILABLE TO THE GENERAL PUBLIC:

29 (I) FINDS THAT CLOSURE IS NECESSARY, AFTER DUE
30 CONSIDERATION OF:

- 31 1. THE SCIENTIFIC BASIS FOR THE FINDING;
- 32 2. THE PURPOSE OF THE CLOSURE;
- 33 3. THE RATIONALE FOR THE SELECTION OF THE SPECIFIC
34 AREA TO BE CLOSED;

1 4. THE SUFFICIENCY OF THE AREA CLOSED TO GENERATE
2 THE BENEFITS PROJECTED; AND

3 5. THE LIKELIHOOD THAT THE SAME OBJECTIVE COULD BE
4 EFFECTIVELY ACCOMPLISHED THROUGH THE USE OF ALTERNATIVE MANAGEMENT
5 MEASURES; AND

6 (II) DEVELOPS PROTOCOLS TO MONITOR AND EVALUATE THE
7 EFFECTIVENESS OF THE CLOSURE; AND

8 (2) HOLDS AT LEAST ONE PUBLIC HEARING IN ACCORDANCE WITH THE
9 REQUIREMENTS UNDER SUBSECTION (C) OF THIS SECTION.

10 (C) (1) FOR 2 SUCCESSIVE WEEKS IN ADVANCE OF A PUBLIC HEARING
11 REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION, THE DEPARTMENT SHALL:

12 (I) POST A NOTICE OF THE DATE, TIME, PLACE, AND PURPOSE OF
13 THE HEARING IN A PROMINENT POSITION ON THE DEPARTMENT'S OFFICIAL
14 INTERNET WEBSITE; AND

15 (II) ADVERTISE THE DATE, TIME, PLACE, AND PURPOSE OF THE
16 HEARING IN AT LEAST:

17 1. ONE NEWSPAPER OF GENERAL DAILY CIRCULATION IN
18 THE STATE; AND

19 2. ONE NEWSPAPER CIRCULATED IN THE AFFECTED REGION
20 OF EACH COUNTY IN WHICH WATERS MAY BE DIRECTLY AFFECTED BY THE
21 PROPOSED CLOSURE.

22 (2) AT LEAST 15 DAYS BEFORE THE PUBLIC HEARING, THE DEPARTMENT
23 SHALL MAKE AVAILABLE TO THE GENERAL PUBLIC THE REPORT REQUIRED UNDER
24 SUBSECTION (B)(1) OF THIS SECTION.

25 (D) (1) WITHIN 3 YEARS OF A CLOSURE OF STATE WATERS UNDER THIS
26 SECTION AND AT LEAST EVERY 3 YEARS THEREAFTER, IN A WRITTEN REPORT MADE
27 AVAILABLE TO THE GENERAL PUBLIC, THE DEPARTMENT SHALL:

28 (I) BASED ON THE PROTOCOLS ADOPTED UNDER SUBSECTION
29 (B)(1)(II) OF THIS SECTION, EVALUATE THE EFFECTIVENESS OF THE CLOSURE IN
30 ACCOMPLISHING ITS OVERALL MANAGEMENT OBJECTIVES; AND

31 (II) DETERMINE WHAT, IF ANY, MANAGEMENT MODIFICATIONS
32 WOULD BE APPROPRIATE, INCLUDING THE REOPENING OF THE CLOSED AREA.

33 (2) IF THE DEPARTMENT DOES NOT TIMELY REPORT ON A CLOSED AREA
34 AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT
35 SHALL PROMPTLY REOPEN THE AREA.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
2 construed to apply only prospectively and may not be applied or interpreted to have
3 any effect on or application to any finfish management plan or any amendment to an
4 approved finfish management plan adopted before the effective date of this Act.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect June 1, 2004.